

1893-002 Chancery Causes: A. J. Ely & wife vs. E. W. Madison & wife &
Lee Co.

Turner

CA - Estate Dispute
T - Property

To The Hon. H. S. K. Morrison
Judge of the Circuit Court of
Lee County Virginia:

Your Complainants A. J.
Ely and Mary J. Ely his wife
who humbly Complainings would
respectfully represent that your
female Complainant was the
widow of one, Chad B. Turner
late of this County now deceased
and that she and her said hus-
band deceased were the owners of
a tract of land in this County
near Permington Gap known as
the Elijah Permington farm and
consisted of about 145 acres. These
lands were formerly owned by
the heirs of one Turner of whom
your female Complainant was
one. She therefore owns in her
own right one share 40 acres or
thereabouts the residue was the prop-
erty of her late husband and in
which she has a closer interest

The said Chad B. Turner died in-
testate and his interest descended to
his children his heirs at law 8
in number, all infants and under
the age of 21 years. Their names
are George Turner, William Turner
Dunnie Turner, Susan Madison who
is the wife of E. W. Madison, Anne
Turner, Bettie Turner, Mary Turner
and Lillie Turner, as above stated all are
infants.

There is a small amount of debt to be paid for which said land is bound, but that can be arranged as each one can pay his or her share, except the smallest whose guardian can pay in the time required.

The object of this bill therefore is to have partition made thereof by first laying off & ascertaining the share due your female Complainant the lot to hold by her and the lands which descended to her & the said Charles children & then cut off this latter share to have her reasonable dower assigned to her cut this land off theirs - and then that their land may be divided & partitioned among them each as they may be entitled, and your Complainant would further show that your female Complainant has made a deed to her present husband for a part of said land, and that said partition may show his interest in the same, and that their shares be laid off in convenient form or all together, and that your female Complainant be assigned the mansion house which she now occupies and that her dower be so laid off as to fall equally on each of the heirs separate

shores.

To effect which they pray
that George Turner, William
Turner, Dennis Turner, E. W.
Machison and Susan Machison his
wife, Anne Turner, Bettie Turner
Mary Turner and Lillie, Turner
be made parties defendant to this
bill, that a guardian ad litem
be appointed to answer and de-
fend the said infant, and on
the hearing said land be par-
titioned according to the interest
held by each as stated in this
bill - And for all other fur-
ther & general relief. May
your wisdom &c.

A. A. Pendleton

P. q.

Lobs recorded.

A. J. Ely wife

v Bill Ely

E. W. Madison wife
et al

1891. 1st Nov. Rules Bk
filed Spa Gd + D. M.

" 2nd Nov. Rules Bk
filed L. W. Conifd and
D. W. Ely for hearing
Plaintiffs.

" Nov. Term. Decree for
partition + cont'd

1892 March Rule + cont'd

" Aug + term cont'd

1893 March Decree

Final O. B. 4 66.

C 15.42

G. A. L. 5.00

S 6.50

W 15.00

Coins 33.00

Co C 4.74

\$79.66

To the Hon H. S. K. Morrison
Judge of the Circuit Court for
Lee County Va.

The Deferate answer of George
Turner, William Turner, Daniel
Turner, Susan ~~Morrison~~, Nerve
Turner, Bettie Turner, Mary Turner
and Lillie Turner, minor heirs
of Leahd. B. Turner decd, by J. A. G.
Byatt their Guardian ad litem
to a Bill in chancery filed in
your Honors Court, by A. J.
Ely & wife against these and
other defendants.

For answer this respondent
saith that he knows nothing
of the truth or falsity of the alli-
gations in Plaintiffs Bill
Nor is his wards of sufficient
age to advise as to their rights
and interest but it seems nothing
but just that partition of the
land mentioned in the bill
believing that infants rights
are better protected separated
from others.

Respectfully submitted
J. A. G. Byatt & A. L.

A. J. Eely & wife
in And G. L.

o res 3
E. W. Madawetal

Filed 2 Nov Rules

1891.

J. A. S. Hyatt

A. J. Ely and wife
against

E. W. Madisen & wife

This Cause
Came on again this day to be
heard upon the papers formerly
read, and the report of John P.
Graham James K. P. Kelly and Wm. S.
G. Barron filed Oct 25-1892 with
accompanying plat of partition
to which there are no exceptions -
On consideration of which and
for reasons appearing, ^{the court} said report
and accompanying plat are each
confirmed and made final, and
Mary Ely will take and hold
the lot and dower interest assigned
her as shown by said report and
plat the lot free from the claims
of the others, and the dower interest for
and during her natural life, and
if she has sold the same then her
vendee is to hold in her room and
stead, and each of the parties are
decreed to take and hold each the
lot so assigned him or her as
shown by said plat & report, and
it is adjudged & ordered that the peff

recover from the defendant
the costs of this suit to be paid
equally by them ^{except as hereinafter provided} to her, and the Clerk
will so tax the same and enter it on
the execution should one issue, but
only one execution, ^{at all times} shall issue and
that to be against all the defend-
ants, and for the partition of the
land outside the closer the plaintiff
her vendee ~~to~~ shall pay her part
also of said costs, and these costs
are decreed to be a lien upon each
lot until paid.

And the Clerk of this Court will
transmit to the Clerk of the County
Court the decree in this cause making
particular; said report and plat of
partition, and this decree, and the Clerk
of the County Court will record the
same in the book kept by him
for the recording of deeds, ^{and index of deeds.} and return
the same to the Clerk of this Court
together with his legal fees and
the Clerk of this Court will tax
such fees as a part of the
costs of this suit, ^{as above directed.} and no
further action being necessary the

Cause is Stricken from the docket
with leave to any interested party
in six months ^{hereafter} to reinstate it same
for its purposes of enforcing this
decree.

Virginia Lee County to wit:

In the office of the Clerk of the
said county the 23rd Day of Nov-1893
the foregoing Plat and report together
with the Decree therewith of the partition
of lands of A J Lee Deceased was
this Day filed in this office and ad-
mitted to record.

Leah S. V. F. Richmond
Clerk

A. J. Ely wife

vs { Decree

Final

E. W. Madsen vs

March 7. 1898

Entered Chy

O. B. page

466 March 14/1898

J. C. Hyatt

Recorded Deed Book

No 29 Page 470

Enter this

March 14 - 1898

H. J. K. M.

A. J. Ely & wife — Off }
Against } In Ch
E. W. Monro & wife et al }

This
Cause came on again this day
to be heard upon the papers
formerly read & was argued by
Counsel — And it appearing to
the Court that the Comrs heretofore
appointed to make partition of
the lands in the bill mentioned
have not performed the duties
heretofore assigned them under a
former decree — The said Comrs, John
P. Graham, J. K. Kelly and Gall
Barron are each required to
appear before this Court on
the first day of the next term
of this Court and show Cause
if any they have, why they
shall not be fined for their
said Contempt — And this Court in
not heretofore performing the
duties required of them viz: making
the partition of the lands in the
bill mentioned. And the cause is
Continued.

A. J. Elsworth

283 Decree
Rule.

E. W. Monroeville

June 1. 1892

Entered Chas. O. B.

page 393. June

8th 89th

Ofyatt C

Enter this
June 8th 1892

H. K. M.

A. J. Ely wife - - - Offs. }
 against } Ex Chy.
 E. W. Monroe wife def- }
 This

Cause, came on this day to
 be heard upon the bill of the
 pelf, and answer of George Turner
 William Turner, Daniel Turner
 Aerva Turner, Bettie Turner, Mary
 Turner Lillie Turner and Susan
 Maxine wife of E. W. Monroe
 infant defendants by John A. G.
 Hyatt Their guardian ad
 litem and process duly served
 on the adult defendants; and
 was argued by Counsel - on
 Consideration whereof and for
 reasons appearing to the Court
 It is adjudged ordered and
 decreed that J. P. Graham
 Gale Barron and J. K. O. Kelly
 be and they are hereby appoint-
 ed special Commissioners whose
 duty it shall be to go upon
 the land in the bill mentioned and
 first ascertain and lay off the
 lot due the female pelf in her
 own right as heretofore assigned

if such assignment has been made, if not they will lay off & assign the same, they will then cut-off the residue lay off as & for the female plffs dower one third in rental value of the residue - and then make equal partition of the same among those entitled, so dividing the same as that each but embrace its due part of the land covered by the dower -

They will make a plat of the division made by them and report the same to this Court - Now it being suggested that the plffs have sold their interest to ~~Anderson~~ ~~and~~ Ely and convey the same to him said Court will ascertain that fact & if so conveyed they will assign to him the plff's interest therein. Now the case is continued.

A. J. Ely over

W3 Decree

E. W. Madison et al

Dec. 7. 1891

Ind. Co. D#
page 371

Hyatt Co

2 Dred Book 29 Page 64

S. W. F. Richmond
Chgo. Ill.

Enter this

Dec. 4 1891

H. J. W. M.

Virginia

At a Circuit Court continued and held
for Lee County at the Courthouse thereof on 4th
day of December 1891.

A. Kelly wife

against

E. W. Monroe & Wife.

Plffs

Defts

In Chancery

It is adjudged ordered and
decreed that J. P. Graham, Gale Bonson and J. A. Kelly, be
and are hereby appointed Special Commissioners
whose duty it shall be to go upon the land in the
bill mentioned and 1st ascertain and lay off the
lot due the female plaintiff in her own right as
heretofore assigned if such assignment has been made
if not, they will lay off and assign the same. They
will then out of the residue lay off as and for the
female plaintiffs dower one third in rental value
thereof. And then make equal partition of the same
among those entitled. So dividing the same so that each
lot embraces its due part of the land covered by the
dower. They will make a plat of the division made
by them and report the same to this Court.
And it being suggested that the plaintiffs have sold their
interest to Henderson A and Grant Ely and conveyed the
same to them. Said Commissioners will ascertain that
fact, and if so conveyed, they will assign to
them the plaintiffs interest therein. and the
cause is continued

A copy. Truly

J. H. Kyatt CC

A. J. Ely & wife.

vs $\frac{3}{4}$ Cops of Decree

E. W. Monroe & wife

Decr Term 1891

Executed Dec

28th 1891 by

Delivering an
office copy to

Gale Barrow

W. H. P. Kelly

& Patten Graham

L. M. Wade Dep't

for C. E. Tilarary

S. L. C.

Fee for Copies \$1.08

Page 1

To the Honorable Morrison
Judge of the circuit Court of Lee County
we the undersigned commissioners Pursuant
to your order made December 4th 1891 and
to us directed went upon the lands of C. B.
Turner deceased on Thursday the 6th day of
October 1892 and proceeded to survey lay off
and assign said lands to the several par-
ties entitled thereto and now beg leave to
report we first surveyed the river or
bottom land south of the Publick Road

Geo. Turner

We assign to George Turner 4 acres lot n 1
river bottom and bounded as follows, ^{beginning} at a stake
in the head of the spring near the ~~p~~ index
and thence N 61 $\frac{1}{4}$ W 1 $\frac{1}{4}$ Poles to stake near the
corner of the Springhouse S 20 W 8 $\frac{1}{2}$ Poles to 3
near the corner of a old stable S 12 $\frac{1}{4}$ W 103 to a
double cedar then on same degree 3 Poles to a stake
at the river then up the river 8 Poles to a
scubby sycamore then N 12 $\frac{1}{4}$ E 113 $\frac{1}{4}$ Poles to stake
at 7 on a line of the Dower and with ^{The Beginning} line of same to

Wm Turner
4 acres

We assign lot no 2 to William Turner beginning
at 7 corner first lot S 12 $\frac{1}{4}$ west 113 $\frac{1}{4}$ Poles to
scub sycamore at the river corner to first lot
then up the river 9 $\frac{1}{4}$ Poles to a sycamore Bush
N 12 $\frac{1}{4}$ E 107 Poles to stake on a line of the
Dower at 8 thence S 69 $\frac{1}{2}$ E 7 Poles to 7 corner to first
lot this lot contains 4 acres

~~Elizabeth~~

~~Mr~~ Susan Madison
lot no 3

We assign lot no 3 to Susan Madison containing 4 acres Beginning at 8 corner to Wm Turner and with his line S $12\frac{1}{4}^{\circ}$ W 107 Poles to a sycamore bush at the river then up the river 12 Poles to a double water birch then N $12\frac{1}{4}^{\circ}$ E 98 Poles to stake on lower line and with it to the Beginning S $69\frac{1}{2}^{\circ}$ E 7 Poles to 8

Elizabeth Middleton
lot no 4

We assign lot no ⁴₄ 4¹/₂ acres to Elizabeth Middleton Beginning at 9 corner to Susan Madison and with line of same S $12\frac{1}{4}^{\circ}$ W 98 Poles to a double water birch at the river then up the river 14 Poles to stake and double Holly and White Oak marked as pointers the stake stands between Holly & Oak and is the corner N $12\frac{1}{4}^{\circ}$ E 87 Poles to stake on line of Dower then S $69\frac{1}{2}^{\circ}$ E $7\frac{3}{4}$ Poles to the Beginning

Minerva Turner
lot no 5
5¹/₂ acres

We assign lot no 5 to Minerva Turner begin at 10 a corner to Elizabeth Middleton and with her line S $12\frac{1}{4}^{\circ}$ W 87 Poles to stake Holly & white Oak at the river then up the river 12 Poles to a small Hickory bush near a persimmon marked as a pointer then crossing an island N $12\frac{1}{4}^{\circ}$ E 80 Poles to a stake on the Dower line and with same S $69\frac{1}{2}^{\circ}$ E 8 Poles to the beginning at 10

James D. Turner
lot no 6 - 6¹/₂ acres

We assign lot no 6 containing 6¹/₂ acres to James D. Turner Beginning at 11 corner to Minerva Turner and with her line S $12\frac{1}{4}^{\circ}$

5th Page

then up the river 2 Poles to a dogwood corner to J. K. P. Kellys land and with line of the same N 74 $\frac{1}{4}$ ° E 27 $\frac{1}{2}$ Poles to two black oak stumps on a steep hillside N 23 $\frac{3}{4}$ ° E 25 Poles to a rock ~~near two large white~~ N 43° E 36 Poles to a rock near two large white oak ~~stumps~~ N 12° W 33 Poles to ~~two~~ chestnuts from one root - then leaving Kellys line S 11° E 88 Poles by plat to a stake on a hillside S 80° E 9 $\frac{1}{2}$ Poles to an apple tree S 16° E 18 $\frac{1}{2}$ Poles to a stake on a line dividing the mountain part of the farm from the river bottom then with same S 65 $\frac{1}{4}$ ° W 7 Poles to stake opposite the Turner gate so often mentioned N 24 $\frac{1}{2}$ ° W 18 Poles to stake in bend of the road N 73° W 10 Poles to stake in north edge of said road N 84° W 10 Poles to stake a corner to the lot in the widows own right S 39° E 30 $\frac{1}{2}$ Poles to stake at the corner of the Springhouse reference on diagram the lots last described on either side of the line with cross marks on it & D.D. D.D. We next assign 8 acres the most eastern lot to George Turner marked on the diagram No 1.a and bounded as follows to wit beginning at the south east corner of said lot on a stake at the edge of a rock corner to Ephraim Turners land and with

Geo Turner
8 acres

6 Page

a line of the same N 10²W 165 Poles to a black oak ^{hooky} ~~stake~~ on the top of the mountain Then with the top of the mountain westward to Stake S 10²E 165 Poles to Stake in the north edge of the road N 66¹/₂E 8 Poles to The Beginning at W.

Wm Turner
lot no 2-8 acres

We next assign lot no 2 and marked to Wm Turner to said William Turner Beginning at N corner to first lot a stake ran with line of first lot N 10²W 165 Poles to stake on the top of the mountain Then westwardly 8 Poles to stake then S 10²E 165 Poles to stake in the north edge of the road S 52²/₃E 3 Poles & 3 links to stake N 66¹/₂E 5 Poles to The Beginning

Mary L Turner
lot no 3-8 acres

We next assign lot no 3 containing 8 acres to Mary L. Turner and bounded as follows to wit Beginning at N corner to the former lot on a stake N 10²W 165 Poles to stake on the top of the mountain and with the top of said mountain westward 8 Poles to stake then S 10²E 165 Poles to stake at W N 86¹/₂E 8 Poles to The beginning

Elizabeth Middleton
4 lots 8 acres

We next assign lot no 4 to Elizabeth Middleton formerly E. Turner Beginning at N corner N 10²W 165 Poles to a stake on the top of the mountain then along the top of the same westward 5 Poles to ^{Point} ~~stake~~ ^{leaving top of mountain} ~~stake~~ ^{to stake} then S 10²E 165 Poles to stake at the road N 61¹/₂E 8 Poles to The beginning

Page 3

~~W~~ ~~N 12 1/4 W~~ 80 Poles to a small Hickory bush near a persimmon marked as a pointer then up the river 14 1/4 Poles to a stake N 12 1/4 E 75 1/2 Poles to stake on line of Dower and with same S 67 1/2 E 12 1/4 Poles to 11 the beginning

Mary L. Turner We assign lot no 7 containing ~~2~~ 6 acres lot no 7-6 acres to Mary L. Turner Beginning at 12 corner to James D. Turners lot 12 and with line of same S 12 1/4 W 75 1/2 Poles to stake at the river then up the river as it meanders 89 Poles crossing the publick road at the ford of the river opposite Wm Penningtons dwelling to a forked or double water Birch on a sand bar of the river S 69 1/2 E with a line of the Dower 29 Poles to 12 the Beginning you will observe that the Publick road is shown on the plat separating the river tract from that known as the mountain part
thus

J. D. Pennington about 12 acres in the two lots B. B. We assign to James D. Pennington in Lieu of the widow Mary J. Turner Mary J. Ely as she is now called in her own right the two lots marked B. B. and containing twelve acres and bounded as follows to wit Beginning at a stake in the head of the spring corner to George Turners lot N 61 1/4 W 1 1/4 to stake at corner of the springhouse S 20 1/4 W 8 1/2 Poles to stake near the south west corner of a stable S 86 1/2 E 20 Poles

to a stake $S 44^{\circ} E 53\frac{1}{2}$ Poles to a stake $N 65^{\circ} E$
 $25\frac{1}{2}$ Poles to a stake on a line of Ephraim
 Turners lot and with line of same $N 14^{\circ} E 66\frac{1}{2}$
 Poles to stake in Publick road then along said road
 $S 65^{\circ} W 20$ Poles to a stake opposite a gate opposite
 a bend in the road $N 24^{\circ} W 18$ Poles to a stake
 in the north edge of of the Publick road $N 73^{\circ} W$
 10 Poles to stake in said road $N 84^{\circ} W 11$ Poles
 to a stake in road then $S 39^{\circ} E 30\frac{1}{2}$ Poles to
 stake in the head of the spring the last
 described lot is intended to represent $\frac{1}{4}$ of the
 land in value as and for the widow in her
 own right, we now assign the following
 described tract partly River bottom land and
 part mountain land see Diagram D.D. D.D.

J. D. Pennington we next assign as a dower interest to
 Dower interest James D. Pennington as and for Mary
 J. Cly formerly Mary J. Turner the
 Described lots or tracts of Land containing
 of Bottom Land acres and mountain
 land acres and bounded as follows to wit
 Beginning at Stake opposite the widow Turners
 gate at X $S 67^{\circ} W 9$ Poles to stake in the head
 of the spring dividing same $N 61^{\circ} W 1\frac{1}{4}$ Poles ^{to stake} at corner
 of spring house $N 69^{\circ} W 79$ Poles to water birch
 on a sand bar a little north of ford of the
 river opposite ~~Wm~~ Penningtons dwelling then

Page 7

Minerva Turner
Lot no 5- 8 acres

We next assign lot no 5 to Minerva Turner and bounded as follows to wit Beginning at N. corner to the last described lot N 10° W 162 Poles to stake on a line of Kellys land and with it S 30° W 150 Poles to stake at the road N 66° E 8 1/2 Poles to stake at ~~the~~ Beginning

James D Turner
Lot no 6- 8 acres

We next assign lot no 6 to James D Turner and bounded as follows to wit Beginning at a stake at the road marked N 10° W 150 Poles to stake on Kellys line and with it S 30° W 16 1/2 Poles to 140 a stake then S 10° E 140 Poles to a stake at E N 66° E 8 1/2 Poles to the beginning

Susan Madison
Lot no 7- 8 acres

We next assign lot no 7 to Susan Madison Beginning at stake at E N 10° W 140 Poles to stake on Kellys line and with it S 30° W 14 Poles to stake then S 10° E 133 Poles to Rock corner to the James D Pennington lot laid off as and for the widow or Mary J Ely in her own right then N 63 1/2° E 9 Poles to the beginning

Let me add that we thought it wholly impracticable with all the surroundings to do justice to all to lay off the widows dower crossing it with the childrens interests therefore we left it undone.

The mountain
The lines up and down a wire made by protraction and not actually measured all the way up to the top

Page 8

Bill of expenses To John P. Graham Surveyor
and Commissioner 6 days at two dollars ⁵⁰ fifty \$15.00

to J. K. P. Kelly comm 4 1/2 days at \$2.00 ^{at \$2.00} 9.00
to W. H. ^G Barron Comm 4 1/2 " at \$2.00. 9.00
\$33.00

We now ask your Honor that
the rule entered against us be ~~removed~~ ^{dismissed}.
~~may~~ with other causes for not
performing the duties imposed upon
us was first that John P. Graham had
difficulty to find time aside from his
Public duties as Treasurer of this Co
to perform said duties, second cause
was that Henderson City at whose instance
the partition was ordered afterward sold out
his interest and told me I need not trouble
myself further Third reason was that
A. L. Bridemore one of the beneficiaries
in this cause and the parties in whose name
the partition was gotten up as we thought was
not responsible for in condition to make our
fees and A. L. Bridemore refusing to see us paid

we refused to work till John P. Graham
some person did James K. P. Kelly.
who was responsible W. H. G. Barron.
Submitted OCT 15th 1892 Commissioners

~~Mary J. Kelly~~ Kelly
vs 3 Adams
vs 3 Report of
E. W. Massachusetts

Filed Oct 25/89

J. A. S. Hyatt &

Recorded Deed Book
No 29 Page 465
Sam Richmond
C.C.

Fees \$33.00

A. J. Ely & Wife
vs. $\frac{3}{3}$ Rule

Ell. Monrow & wife et al

To 30 day Nov. 1. 1892.

Executed by delivering
an office copy, to J. P.

Graham this July 28. 92

J. A. Underwriter,
Deft for C. E. Flanary
S. L. C.

Further
Executed by
delivering an office
copy to Gale Barron
and W. H. J.

Kelly this July
the 14th 1892

L. M. Wade Deft
for C. E. Flanary
S. L. C.

The Commonwealth of Virginia.

To The Sheriff Of Lee County Greeting:

We Command You to Summon

S. E. W. Madison &
Brian Madison his wife George
Turner, William Turner & Fannie Turner
Verne Turner & Bettie Turner
Mary Turner & Lillie Turner

To appear at the Clerk's Office of the Circuit Court of Lee County, at the Courthouse on the first Monday
in November next, being rule day to answer a bill in Chancery exhibited in our said Court
against them by A. J. Ely

and Mary J. Ely

And have then and there this writ. Witness, J. A. G. Hyatt, Clerk of said Court at the Courthouse.

This 15th day of October 1891, in the 116 year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste

Executed Oct
1891 by declaring
offices copies
of this Spa
in chey to
E. M. Madison
Susan Madison
His wife Georg
Turner William
Turner Lannie
Turner Mary
Turner Bettie
Turner
L. M. Wade
Deputy for
C. E. Flannery
S. L. C.

19
A. J. Ely wife
3
3
3
3
us 3
Spam chog

E. M. Madison

Lo 1st Nov. Rules 1891.

~~Executed Oct 22 1891
by Lums the
within witnesses
in full~~

~~L. M. Wade
Deputy for
C. E. Flannery
S. L. C.~~

See other
side